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BOOKS OF PRACTICE.

LORD COKE we believe it was who said, "to be a good common lawyer, it is necessary to be a good prothonotary." Although the converse of the proposition cannot be pronounced equally true, yet it may confidently be asserted that to the successful practice of the law (understanding "practice" in its technical sense of directing the machinery of justice, rather than determining its principles), other things being equal, the good prothonotary will have a great advantage over his less practically instructed rivals.

Readiness in the actual practice of the law is, as a rule, among the latest acquisitions of the thorough student. Of two young men of equal advantages, of whom one is put to a systematic course of reading for three years, the other placed in the office of a lawyer of large miscellaneous business in the courts, or as an assistant in the prothonotary's office, where the greater part of his time will be taken up with the details of business, the more capable at the end of the three years to conduct the routine business of the law, will be the man who has studied least, and who is probably least acquainted with the theory and principles of jurisprudence.

Now, to put the real student as nearly as possible on an equality in this respect with the man who learns by doing, has been one of the difficult problems legal educators have had to deal with.

The devotion of a certain portion of time to the consideration

of the various causes of action, on a plan akin to that of the best Nisi Prius writers, has been thought by many to afford the best method, short of the engrossing attention to details, of acquiring a knowledge of what is called Practice. If to study so conducted can be added participation in the exercise of a well-ordered Moot Court, all is done it would seem which can be done to make the student's practical and theoretical knowledge run well together. The two will be made to blend harmoniously, if, during the latter part of the student's course, or, better still, after the course of study is completed, he gives himself heartily to the drudgery of paper-drawing (and in this should be included filling up of writs, orders, decrees and executions, as well as pleadings), in cases which are really pending, thus forcing upon him the importance of accuracy in detail, which only the consciousness that a real thing is being done secures. This will be most satisfactorily accomplished in an office in which a well-established miscellaneous business is conducted. By a moderate use of his opportunities for observation, the young man so placed will soon find that very few men carry all the requisite knowledge in their heads, or all the requisite forms on the tip of their tongues or at their fingers' ends. He will soon learn that the professional man of large business, and also the Nisi Prius judge, both of whom are constantly called upon at the shortest notice to pass upon all sorts of questions, involving as well the principles applicable to the questions in hand as the proper mode of enforcing or defeating them; and the judge of the higher tribunal, who is called upon to review the action of the lawyer, and the view of that action taken by the judge of the inferior court, all alike feel constantly the need of instant information of the principles and acquaintance with the precedents applicable to such cases. The great desideratum for the lawyer, or the judge whose time is fully occupied by business pressing for instant action, is a work, call it on "practice" or what you will, which puts all the views, learning and modes of action of his predecessors before him in a manner at once brief, comprehensive and intelligible, so that the disciplined mind may at a glance determine how far the doubt which suggests itself has been already considered, and if not, what guide settled principles afford for its solution. Such a treatise will be equally valuable to the intelligent student. A number of legal writers have tried their hands—essayed to supply this want—some in a wider, some in a narrower field, upon whose labors time has set different estimates. Most

of these works are well known to the profession, and they have all their uses. As a general rule the subjects treated are not handled in an attractive way, and so the works fall almost exclusively into the category of reference books, and from their great accuracy and learning, command great attention, if not implicit obedience from the practitioner; while to the student they are frequently found to be useless, not to say repulsive. The dry bones seem as if they could have no connection with any thing which ever had or could have had life and action in it. In others, the topics are treated in a life-like way, and with enough of literary art to make them attractive to the student. Among the latter class may be included the very valuable work, in seven volumes, of Conway Robinson, of Richmond, Virginia, upon which have literally been bestowed the *lucubrationes viginti annorum.* The work is a condensed library, much more complete and full than the title-pages to the respective volumes, now numbering seven, would lead one to suppose.

The first volume, entitled "The Practice of Courts of Justice in England and the United States," appeared in 1854, and was concerned with "the place and time of a transaction or proceeding, treating chiefly of the conflict of laws, and the Statute of Limitations."

The second volume, with the same title, appeared in 1855, and treated "of the subject-matter of personal actions; in other words, of the right of action."

The third volume appeared in 1858, and treated of "personal actions with respect to the parties who may sue and be sued; the form of action; and the form of the pleadings."

The fourth volume appeared in 1860, and treated of "pleadings in personal actions, particularly of declarations, and giving forms thereof."

The fifth volume appeared in 1868, and treated of "the grounds and form of defence in personal actions."

The sixth volume appeared in 1870, the title being changed to "The Principles and Practice of Courts of Justice in England and the United States," and treated "further as to the grounds and form of defence in personal actions."

The seventh volume appeared in 1874, with the same title as the sixth volume, and treated "further in personal actions, as to the grounds and form of defence, and the answer to that defence."

There is room, therefore, for several additional volumes in the consideration of real actions, and the defences to them, which, if the life of the author is spared, will probably appear in the future.

By a fire which occurred in Richmond in 1865, a large number of the first four volumes were destroyed. That part of the work, therefore, is not readily to be had. Of the whole work it may be fairly said that it contains a mass of accurately digested learning, which may well astonish the student by the revelation it makes of labor necessarily expended, and the access to rare material which it displays; while of the fifth, sixth and seventh volumes, treating of defences in personal actions, it may be said, in the words of Mr. Robinson himself, in the preface to the seventh volume, "they constitute, independently of any which precede them, a treatise complete, believed to be more complete than any other (as to such defences) yet published on either side of the Atlantic."

In a letter to the author (printed on page 1096 of the seventh volume), from the late Sir JAMES SHAW WILLES, one of the judges of the Court of Common Pleas, dated the 1st day of January 1855, and speaking of the first volume of Robinson's Practice, he says:

"Having devoted some of the Christmas vacation to its perusal, I do not know which most to admire and wonder at, the extraordinary industry with which you have collected materials from sources so numerous and so widely scattered, even to the citation of authorities still damp from the English press; the luminous exhibition in so condensed a form of the leading principles of decisions, side by side with the most striking instances of their application, giving to a subject, generally treated so as to be repulsive, a scientific interest; or the singularly felicitous arrangement, giving the clue at once to every part of the subject, and every point within its scope."

The work most nearly resembling Mr. Robinson's, in the comprehensiveness of its plan, is Chitty's General Practice, which must ever remain a monument of the industry and learning of its accomplished author. In many respects it is not as complete as the production of Mr. Robinson, and for the use of the American lawyer lacks the intimate knowledge of the turn the law has taken in the different states, constituting, to the American, so marked and valuable a feature of Mr. Robinson's book, and supplementing "the great amount of legal information, both ancient and modern, on so many different subjects," which Sir GEORGE HAYES

late one of the judges of the Queen's Bench, in a letter to the author, declared so remarkable.

The "*homo unius libri*" is proverbially a dangerous antagonist, and so in another sense he may prove a most valuable friend and ally. One test to which the writer has put Mr. Robinson's work has been on the suggestion of any difficulty to apply to his pages for the solution, and almost invariably the work has answered his appeal, either by solving the difficulty or showing him that the question is yet an open one among the learned, and introducing him to all that is important which has been said on the subject.

To the advanced student, and to the man actively engaged in the administration of the law, this work of Mr. Robinson's seems alike invaluable; a copy of it in many country towns, where well-selected libraries are rare, would be invaluable. It is to be hoped the learned author may live to complete that which has evidently been with him a labor of love. However that may be, in what has been accomplished, the author has already paid handsomely the debt which every lawyer is said to owe to his profession. To that profession we cordially recommend the book.

P. P. M.

RECENT AMERICAN DECISIONS.

Court of Appeals of Kentucky.

JOHN W. KIMBROUGH, APPELLANT, *v.* GEORGE LANE ET AL., APPELLEES.

A contract having for its consideration an agreement to suppress a criminal prosecution is void.

It is equally so, if any part of the consideration was the suppression of the prosecution, and whether the contract was induced by promises or threats on one side or the other.

It is not necessary that the promise should be made at the same time as the contract; it is sufficient if it was made prior thereto, and was acted upon as a part of the consideration or inducement.

Nor does it make any difference that a prosecution is already commenced and is in the hands and under the control of the Commonwealth's officer, if the private prosecutor, as consideration for the contract, promises to abandon his own efforts in the course of justice. The particular interest of the party injured, in bringing the offender to justice, is one of the securities of the public in the enforcement of the laws, and any agreement by which this interest is turned against the Commonwealth is void.

THIS was a suit in equity, brought by appellant in the Bath Circuit Court, against the appellees, George Lane and T. C. Owings,